

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

UNITED STATES OF AMERICA,

vs.

WALTINE NAUTA, *et ano.*,

Defendants.

**Case No. 23-80101-CR
CANNON/REINHART**

**PRESIDENT DONALD J. TRUMP’S MOTION FOR LEAVE
TO PARTICIPATE AS AMICUS CURIAE**

President Donald J. Trump respectfully submits this motion for leave to participate as *amicus curiae* in his individual capacity with respect to the motions of American Oversight and The Knight First Amendment Institute at Columbia University (“Knight Institute”) to intervene in the Court’s proceedings and seek rescission of the Court’s January 21, 2025 Order.

BACKGROUND

1. On June 8, 2023, so-called Special Counsel Jack Smith unlawfully secured an indictment in the Southern District of Florida, charging President Trump with thirty-seven felony counts. ECF No. 3. The Indictment, marred by numerous deficiencies and repeated abuses of office, *see, e.g.*, ECF Nos. 326, 518, 561 and 612,¹ also charged a senior member of President

¹ More recently, Congressional leaders have obtained and released documents revealing that Jack Smith and his team sought and obtained hundreds of unlawful subpoenas to spy on Republican Members of Congress and conservative individuals and entities. *See* Sen. Chuck Grassley, X (Nov. 25, 2025, 2:36 PM), <https://x.com/ChuckGrassley/status/1993403533757182272>; Press Release, U.S. House of Representatives Committee on the Judiciary, Biden-Harris Justice Department Gathered Chairman Jordan’s Phone Records for Over Two Years (Nov. 20, 2025), <https://judiciary.house.gov/media/press-releases/biden-harris-justice-department-gathered-chairman-jordans-phone-records-over>; Press Release, U.S. Senate Committee on the Judiciary, Jack Smith Subpoenaed Records for Over 400 Republican Targets As Part of Arctic Frost (Oct. 29, 2025), <https://www.judiciary.senate.gov/press/rep/releases/new-jack-smith-subpoenaed-records-for-over-400-republican-targets-as-part-of-arctic-frost?>.

Trump's staff, Waltine Nauta, with six felony counts. ECF No. 3. On July 27, 2023, the grand jury returned a Superseding Indictment, also signed by Jack Smith, increasing the number of total charges against President Trump to forty and adding a third defendant, Carlos De Oliveira. ECF No. 85.

2. On July 15, 2024, the Court issued its Order dismissing the Superseding Indictment based upon Jack Smith's unconstitutional appointment and expenditure of millions of federal taxpayer dollars in his pursuit to imprison President Trump. ECF No. 672. Although the Biden Justice Department initially appealed the Court's dismissal, it was forced to abandon that appeal as to President Trump after his overwhelming victory in the 2024 Presidential Election. The Department's appeal as to Nauta and De Oliveira was later dismissed, but only after the Biden Justice Department sought to unlawfully release Smith's "Final Report" prepared in connection with his unconstitutional investigations in the District of Columbia and the Southern District of Florida. *See* ECF No. 679.

3. On January 21, 2025, the Court granted the Emergency Motion of Nauta and De Oliveira to preclude the release of Volume II of the Final Report. ECF No. 714. In the Order, the Court denied President Trump's request to intervene in proceedings but granted his alternative, unopposed request to participate as *amicus curiae* to challenge the release of Volume II. *Id.* President Trump's *amicus curiae* briefing is docketed at ECF Nos. 681 and 700, and counsel for President Trump appeared on his behalf at the Court's January 17, 2025 hearing on the Emergency Motion.

4. On February 14, 2025, and February 24, 2025, respectively, American Oversight and the Knight Institute moved to intervene in the district court proceedings and seek dissolution and/or rescission of the Court's January 21, 2025 Order. ECF Nos. 717 and 721. The Knight

Institute also seeks an order from the Court directing the clerk to publicly file a copy of Volume II on the public docket. ECF No. 721. The remaining parties to the litigation, the United States, Nauta and De Oliveira, filed Joint Status Reports with the Court on March 14, 2025, and December 1, 2025, indicating their positions with respect to the release of Volume II, ECF Nos. 738 and 753, and filed their respective briefs in opposition to the pending motions on March 24, 2025, and March 14, 2024. ECF Nos. 739 and 740.

5. President Trump hereby moves for leave to participate in the proceedings as *amicus curiae* for the limited purpose of reaffirming and incorporating by reference his prior legal arguments to the Court, as well as those made by co-defendants Nauta and De Oliveira, that Volume II of Jack Smith's Final Report should not be made public. President Trump's limited participation in the proceedings will not cause delay or prejudice any party, and this request is consistent with the Court's prior decision to grant President Trump *amicus* status as to the January 21, 2025 Order.

CONCLUSION

For the foregoing reasons, the Court should permit President Trump to participate as *amicus curiae* for the limited purpose of reaffirming the legal arguments presented in his prior briefing and oral argument, as well as those of Nauta and De Oliveira, and should deny the motions of American Oversight and the Knight Institute to intervene and thereby perpetuate Jack Smith's unlawful criminal investigations and proceedings.

Dated: December 2, 2025

Respectfully submitted,

/s/ Kendra L. Wharton

Kendra L. Wharton

Fla. Bar No. 1048540

WHARTON LAW PLLC

k.wharton@whartonlawpllc.com

500 S Australian Ave, Ste 600-1139

West Palm Beach, FL 33401

(561) 247-5279

Counsel for President Donald J. Trump

CERTIFICATE OF CONFERENCE

I hereby certify that on December 1, 2025, counsel for President Trump conferred with counsel for the United States, Waltine Nauta, Carlos De Oliveira, American Oversight and Knight Institute, and is authorized to represent that counsel for the United States, Nauta and De Oliveira have no objection to the foregoing motion. Counsel for American Oversight and Knight Institute indicated that they oppose the motion as untimely.

/s/ Kendra L. Wharton
Kendra L. Wharton

CERTIFICATE OF SERVICE

I, Kendra L. Wharton, certify that on December 2, 2025, I electronically filed the foregoing document with the Clerk of Court using CM/ECF.

/s/ Kendra L. Wharton
Kendra L. Wharton